UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOSE GUZMAN,   :   No. 16-cv-03499 (GBD)(RLE)
                                              :
                    Plaintiff,   :   **SUPPLEMENTAL**
                                              :   **DECLARATION OF**
      - against -   :   **WILLIAM MLOTOK IN**
                                              :   **OPPOSITION TO**
MEL S. HARRIS AND ASSOCIATES, LLC, et al.,   :   **PLAINTIFF'S MOTION FOR**
                                              :   **SUMMARY JUDGMENT**
                    Defendants.   :

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WILLIAM MLOTOK declares as follows:

1.   I submit this supplemental declaration in opposition to plaintiff's motion for

summary judgment. In addition, in the Declaration of William Mlotok in Support of the Motion

for Summary Judgment by Samserv Defendants, dated July 19, 2017, I set forth facts that are

also relevant to plaintiff's motion.

2.   Samserv, Inc. ("Samserv") has maintained databases in connection with services

of process assigned by Samserv to independent contractor process servers. As described in my

declaration in support of the Samserv Defendants' motion, that database would be populated by

data entered by a clerk, including data that was on a form completed in handwriting by the

independent contractor process server. One purpose of this data entry was to generate an

affidavit of service for completed services of process.

3.   One data entry field that was filled in was the "assigned date." This field was for

internal use and was not an important field. Its contents were not reflected on the affidavit of

service that would be generated.

4.   The "assigned date" could reflect the date on which papers were provided to an

independent process server for service. But it also could be the first date on which data for that

service of process was entered, even if the papers were assigned earlier to an independent

process server for service. Furthermore, the delay in data entry can occur either when papers

come into our office as a rush or when clerical staff is shorthanded for various reasons and the

data entry function is delayed. Thus, for these and other reasons, it is incorrect to assume that

the "date assigned" field means the date on which a process server first is given papers for

service.

5.   The times that were included in affidavits of service in June and July of 2007 are

approximate times. This is reflected in the affidavit of service completed by John Andino in

connection with service of process on Mr. Guzman, a copy of which accompanies this

declaration as Exhibit A. As that affidavit of service states, service was "at approximately the

time of 8:59 am. . ." The same language was used in June 2007 for affidavits prepared in

connection with service of process on behalf of Samserv clients.
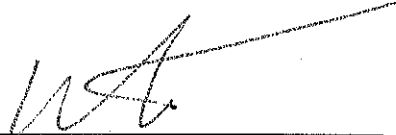
6.   Part of the affidavit of service accompanying this declaration as Exhibit A

includes the words "Private Residence." In 2007, these words were not derived from

information provided by the process server, but were filled in by a default function of the

program that generated the affidavit of service. The information filled in by the program was to

be checked for accuracy by the process server, as Samserv has charged each process server,

including Andino, with ensuring that the information in each affidavit of service to which they

swear was correct prior to signing such affidavit of service.

7.   Accompanying this declaration as Exhibit B are true and complete copies of

documents maintained by Samserv in its ordinary course of business. These documents reflect

photographic evidence of various services of process undertaken by Nasser Al-Atrash, which

were the subject of motion practice in connection with litigation involving Cavalry Portfolio

Services. LLC, as reflected in Exhibit L to the Keshavarz Declaration in Support of Mr.

Guzman's Motion for Summary Judgment. Nearly all of these photographs bear a time and date

stamp showing when the picture was taken, and most are accompanied by a printout of

information stored in the ordinary course of business of Samserv, which describes the location at

which each photograph was taken. These documents demonstrate that Mr. Al-Atrash was at the

locations and at the times and places indicated in these documents, relating to services of process

at those locations.

8.   As stated in my prior declaration, Samserv would only retain individuals who

were duly licensed by the New York City Department of Consumer Affairs ("DCA"). for

process to be served in the City of New York. Samserv would not engage an independent

contractor for service of process in the City of New York so long as that individual's license was

not in force, through suspension, revocation, expiration or otherwise.

I declare under penalty of perjury that the foregoing is true and correct. Executed on

August 8, 2017.

William Mlotok